

(4) If the person does not agree to the stipulation, or does not pay the penalty within the specified time, the Administrator may issue an administrative complaint citing the alleged violation; and

(5) The civil penalty that the Administrator proposed in a stipulation agreement has no bearing on the civil penalty amount that may be sought in a formal administrative proceeding against the same person for the same alleged violation.

(b) [Reserved]

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

Sec.

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AUTHORITY: 7 CFR 2.22 and 2.81.

§ 203.1 [Reserved]

§ 203.2 Statement of general policy with respect to the giving by meat packers of meat and other gifts to Government employees.

(a) In recent months, the Department has received information, confirmed by investigation, that a number of packers subject to the Packers and Stockyards Act have made gifts of meat to Government employees responsible for conducting service activities of the Department. Such gifts have the implications of fraud, even if not made specifically for the purpose of influencing these employees in the performance of their duties.

(b) It is a violation of the Meat Inspection Act for any person, firm, or corporation to give to any employee of the Department performing duties under such act anything of value with intent to influence such employee in the discharge of his duties, or for such employee to receive from any person, firm, or corporation engaged in interstate or foreign commerce any gift given with any intent or purpose whatsoever (21 U.S.C. 90). Under the Federal meat grading regulations, the giving or attempting to give by a packer of anything of value to any employee of the Department authorized to perform any function under such regulations is a basis for the withdrawal of Federal meat grading service (7 CFR 53.13). The receiving by an employee of the Department of any gift from any person for whom grading, inspection, or other service work is performed is specifically prohibited by Departmental regulations.

(c) Upon the basis of paragraphs (a) and (b) of this section, it is the view of the Department that it is an unfair and deceptive practice in violation of section 202(a) of the Packers and Stockyards Act (7 U.S.C. 192(a)) for any person subject to the provisions of Title II of said Act to give or offer to give meat, money, or anything of value to any Government employee who performs inspection, grading, reporting, or regulatory duties directly relating to the purchase or sale of livestock or the preparation or distribution of meats, meat food products, livestock products

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in unmanufactured form, poultry or poultry products.

(Sec. 407, 42 Stat. 169; 7 U.S.C. 228; 9 CFR 201.3)

[26 FR 710, Jan. 25, 1961; 29 FR 4081, Mar. 28, 1964]

§ 203.3 [Reserved]

§ 203.4 Statement with respect to the disposition of records by packers, live poultry dealers, stockyard owners, market agencies and dealers.

(a) *Records to be kept.* Section 401 of the Packers and Stockyards Act (7 U.S.C. 221) provides, in part, that every packer, live poultry dealer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. In order to properly administer the P&S Act, it is necessary that records be retained for such periods of time as may be required to permit the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) a reasonable opportunity to examine such records. Section 401 of the Act does not, however, provide for the destruction or disposal of records. Therefore, the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) has formulated this policy statement to provide guidance as to the periods of time after which records may be disposed of or destroyed.

(b) *Records may be disposed of after two years except as otherwise provided.* Except as provided in paragraph (c) of this section, each packer, live poultry dealer, stockyard owner, market agency, and dealer may destroy or dispose of accounts, records, and memoranda which contain, explain, or modify transactions in its business subject to the Act after such accounts, records, and memoranda have been retained for a period of two full years; *Provided*, That the following records made or kept by a packer may be disposed of after one year: cutting tests; departmental transfers; buyers' estimates; drive sheets; scale tickets received from others; inventory and products in

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storage; receiving records; trial balances; departmental overhead or expense recapitulations; bank statements, reconciliations and deposit slips; production or sale tonnage reports (including recapitulations and summaries of routes, branches, plants, etc.); buying or selling pricing instructions and price lists; correspondence; telegrams; teletype communications and memoranda relating to matters other than contracts, agreements, purchase or sales invoices, or claims or credit memoranda; and *Provided further*, That microfilm copies of records may be substituted for and retained in lieu of the actual records.

(c) *Retention for longer periods may be required.* The periods specified in paragraph (b) of this section shall be extended if the packer, live poultry dealer, stockyard owner, market agency, or dealer is notified in writing by the Administrator that specified records should be retained for a longer period pending the completion of any investigation or proceedings under the Act.

(d) *Unauthorized disposal of records.* If it is found that any person subject to the Act has disposed of accounts, records, and memoranda which are necessary to fully and correctly disclose all transactions in its business prior to the periods specified in this statement, consideration will be given to the issuance of a complaint charging a violation of section 401 of the Act and seeking an appropriate order. The administrative proceeding initiated will be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary (7 CFR 1.130 *et seq.*).

(Approved by the Office of Management and Budget under control number 0580-0015)

(7 U.S.C. 228, 7 U.S.C. 222, and 15 U.S.C. 46)

[49 FR 6085, Feb. 17, 1984, as amended at 54 FR 16357, Apr. 24, 1989; 68 FR 75388, Dec. 31, 2003]

§ 203.5 Statement with respect to market agencies paying the expenses of livestock buyers.

It has become a practice in certain areas of the country for market agencies, engaged in the business of selling consigned livestock on a commission basis, to pay certain of the business or personal expenses incurred by buyers